

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

MARIO CORNEJO and FRANCESCA  
AVALOS, husband and wife,

Plaintiffs,

v.

CHANNEL LENDING CO., et al.,

Defendants.

CASE NO. C03-3181C

ORDER

This matter comes before the Court on the parties' competing motions to conclude or reopen this case: Plaintiffs' motion to enter judgment (Dkt. No. 145) and Defendant Daniel Shaffer's motion for relief from the Court's Order enforcing the parties' settlement agreement (Dkt. No. 152). Having carefully considered the memoranda, declarations, and exhibits submitted by the parties and deeming oral argument unnecessary, the Court finds and orders as follows.

**I. BACKGROUND FACTS**

*A. Relevant Procedural History*

As set forth in the Court's earlier orders, this case arises out of Plaintiffs' allegations that the Defendants engaged in illegal lending practices under the Fair Housing Act and Truth in Lending Act, as well as violations of state mortgage-broker laws. The complaint named, among other defendants,

1 Channel Lending Company (“Channel”), which Plaintiffs alleged was owned and operated by co-  
2 defendant Daniel Shaffer. (Dkt. No. 1.) The dispute appeared resolved via a mediated settlement  
3 agreement under which Channel was required to execute a \$29,000 promissory note to Plaintiffs secured  
4 by a deed of trust on property owned by co-defendant Daniel Shaffer. (*See* Dkt. No. 134 at 1–2.)  
5 Shaffer further agreed to execute a confession of judgment in the amount of \$29,000 as security for the  
6 promissory note to be executed by Channel; Shaffer was further to assign to Plaintiffs a \$60,227 note  
7 owed to Shaffer by his former spouse. (*Id.*) The handwritten settlement agreement was signed on each  
8 page by then-counsel for Channel and by Shaffer himself. (*Id.*)

9       Following unsuccessful efforts to collect these amounts, Plaintiffs sought an order enforcing the  
10 terms of the settlement agreement against Channel and Shaffer in July, 2005. (Dkt. No. 125.) After  
11 Shaffer—no longer represented by counsel—notification the Court that he had filed a voluntary petition for  
12 Chapter 7 liquidation in the District of Alaska, Plaintiffs redirected their motion and sought enforcement  
13 solely against Channel. (Dkt. No. 132.) In doing so, Plaintiffs alleged for the first time that Channel was  
14 a Washington partnership in which Shaffer and non-party Lorraine Wade were the sole partners. (*Id.* 2.)  
15 Shaffer made no representation at that time that Channel was other than Plaintiffs’ represented it. Nor  
16 did he assert that Channel’s assets were subject to the automatic stay against the continuation of a judicial  
17 proceeding against the debtor commenced before the filing of the bankruptcy petition. 11 U.S.C.  
18 § 362(a)(1). Relying on these representations, the Court entered an order enforcing the settlement solely  
19 against Channel as a partnership. That order concluded that Channel’s assets were not part of the  
20 bankruptcy estate, and thus enforcing the settlement against Channel did not offend the bar on actions to  
21 enforce a judgment against “the property of the estate.” (Dkt. No. 134 at 4, quoting § 362(a)(1).)  
22 Channel was required to pay the full liquidated value of the settlement (\$89,227.00) to Plaintiffs. (*Id.*  
23 at 5.) Plaintiffs later submitted a motion for fees and costs incurred in their enforcement efforts (as  
24 contemplated under the settlement agreement itself), and the Court awarded an additional \$4,320.00.

1 (Dkt. No. 144.) The Court ordered Channel to remit the combined settlement and fee total of  
2 \$93,547.00 no later than November 8, 2005. (*Id.*)

3 In response to the order enforcing the settlement agreement, Shaffer timely filed a motion for  
4 reconsideration. (Dkt. No. 140.) In that motion, Shaffer asserted that Channel was in fact not a  
5 partnership, but his sole proprietorship; as such, Shaffer alleged that Channel's remaining assets were part  
6 of the bankruptcy estate, and that Plaintiffs' efforts to enforce the settlement against those assets  
7 interfered with the bankruptcy court's administration of the estate. (*Id.* at 2.) Finding that Shaffer's  
8 failure to earlier alert the Court to these facts did not justify reconsideration, the Court denied his motion.  
9 (Dkt. No. 143.)

10 Receiving no payment from Channel, Plaintiffs turned their attention to Lorraine Wade. On  
11 December 1, 2005, Plaintiffs filed a motion to enter judgment on the settlement agreement against Wade,  
12 arguing that they had no other recourse with Shaffer in bankruptcy and Channel's assets apparently  
13 insufficient to collect against. (Dkt. No. 145.) Although Wade had never been named as a party nor  
14 served with the complaint, Plaintiffs argued that Washington law permitted them to collect the judgment  
15 against Channel's sole solvent partner. Wade entered a limited appearance to oppose Plaintiffs' motion,  
16 asserting that the judgment could not be enforced absent prior service of the complaint. (Dkt. No. 155.)  
17 Shaffer responded with his own motion for relief from the Court's orders enforcing the settlement and  
18 denying reconsideration. (Dkt. No. 152.)

19 *B. Shaffer's Bankruptcy Case*

20 In June 2005, Shaffer filed a voluntary petition for Chapter 7 liquidation in the Bankruptcy Court  
21 for the District of Alaska. (*See In re Shaffer*, No. A05-00758-HAR, Dkt. No. 1.) Shaffer's petition  
22 listed "Channel Lending Co." under the heading of "Other Names Used by Debtor" and included in his  
23 schedule of personal property a checking account held by Channel. (*Id.* at 26; Suppl. Shaffer Affidavit,  
24 Ex. B at 1.) The parties disagree sharply whether and to what extent Plaintiffs received notice of  
25 Shaffer's petition, but in November 2005 Plaintiffs filed a timely claim for \$93,547.00. (No. A05-00758-

1 HAR, Dkt. No. 37.) The Trustee recently filed a motion to settle Plaintiffs' claim at a reduced amount,  
2 and represented that Plaintiffs were willing to settle on the terms set forth in that motion. (*Id.* Dkt.  
3 No. 41.) Shaffer's bankruptcy counsel has also filed a motion to hold Plaintiffs and their counsel in  
4 contempt for continuing to pursue enforcement efforts in this Court in violation of the automatic stay.  
5 (*Id.* Dkt. No. 25.) The bankruptcy court has not yet ruled on either of these motions.

## 6 **II. ANALYSIS**

7 The fundamental question presented by the pending motions in this case is whether there remains  
8 any action that this Court could take to resolve the dispute without impinging on the bankruptcy court's  
9 orderly administration of Shaffer's estate and the assets therein. As stated in the Order enforcing the  
10 parties' settlement agreement, "the Court is disinclined to exercise its discretion to interfere with the  
11 automatic stay provided to bankruptcy petitioners under 11 U.S.C. § 362(a)(1)." (Dkt. No. 134.)

12 The pending motions call on the Court to determine the same issues surrounding the proper  
13 allocation of Shaffer's and Channel's assets that will ultimately be resolved through the liquidation of the  
14 estate's non-exempt assets. Specifically, Plaintiffs' motion seeks an order concluding that because  
15 Channel is a partnership, its assets are not protected by the automatic stay; Shaffer's requested relief  
16 requires the opposite conclusion. But the proper forum for defining Channel's corporate structure and  
17 determining which assets and entities are part of the estate is the bankruptcy court: "The automatic stay  
18 under section 362 is designed to give the bankruptcy court an opportunity to harmonize the interests of  
19 both debtor and creditors while preserving the debtor's assets for repayment and reorganization of his or  
20 her obligations." *In re Pettit*, 217 F.3d 1072, 1077 (9th Cir. 2000). As the facts described above make  
21 clear, any further substantive orders by this Court to enforce the parties' settlement agreement will  
22 inevitably interfere with the orderly administration of Shaffer's bankruptcy estate. *See Pettit*, 217 F.3d at  
23 1077 (automatic stay "sweeps broadly, enjoining the . . . enforcement of prior judgments").

24 Although the Court is sympathetic to Plaintiffs' desire to realize the fruits of their settlement  
25 agreement, the orderly administration of justice would best be served by awaiting a conclusion of the

1 bankruptcy case before proceeding further with this case. *See In re Conejo Enters.*, 96 F.3d 346, 352  
2 (9th Cir. 1996) (“Bankruptcy is designed to provide an orderly liquidation procedure under which all  
3 creditors are treated equally. A race of diligence by creditors for the debtor’s assets prevents that.”). So  
4 long as Plaintiffs’ claim has been incorporated into the liquidation process and assets remain in the estate  
5 to satisfy that claim (in whole or part), the Court will allow that process to run its course. *See In re*  
6 *Spiritos*, 221 F.3d 1079, 1081 (9th Cir. 2000) (“So long as there are assets in the estate, then, the stay  
7 remains in effect, preventing [Plaintiff] from collecting her judgment by attaching those assets.”) (citing 3  
8 COLLIER ON BANKRUPTCY § 362.06(1) (15th ed)).

9 **III. CONCLUSION AND ORDER**

10 For the foregoing reasons, the Court hereby STRIKES Plaintiffs’ motion to enter judgment and  
11 Defendant Shaffer’s motion for relief from the Court’s prior orders WITHOUT PREJUDICE. The Court  
12 further ORDERS that this matter be STAYED in its entirety pending a final resolution of Plaintiffs’  
13 claims in the Bankruptcy Court for the District of Alaska, Case No. A05-00758-HAR.

14 At that time, any party to this case may file a motion to lift the stay and file any appropriate  
15 motions. The Clerk is DIRECTED to send copies of this Order to all parties, counsel for Lorraine Wade,  
16 and the United States Trustee’s Office for the District of Alaska.

17 SO ORDERED this 22nd day of February, 2006.

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20 UNITED STATES DISTRICT JUDGE  
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